

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

JAMES DIPALMA,

Defendant.
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MEMORANDUM AND ORDER

98-CR-1075 (ERK)

In an endorsed order dated November 28, 2006, Judge Korman referred a letter dated November 17, 2006, from counsel for defendant James DiPalma, to the undersigned magistrate judge for decision. The letter concerned a dispute between the defense and the government as to (1) the calculation of the amounts already paid by defendants as restitution, and (2) the government's refusal to credit the individual defendants' accounts with payments made by the corporate defendants.

On December 4, 2006, this Court entered an order ("12/4/06 Order") rejecting the latter challenge¹ and setting a schedule for the submission of documents necessary to the Court's resolution of the remaining dispute. The defense was directed to supply the Court and government, by December 20, 2006, with a detailed listing of restitution payments alleged to have been made, along with supporting documents. See 12/4/06 Order at 1 & n.1. The government's response, including any underlying documentation, was due by January 4, 2007. See id.

¹ Specifically, this Court ruled that the first \$272,271 recovered from the corporate defendants need not be credited against the amounts owed by the individual defendants because the judgments of restitution against the corporate defendants (in the amount of \$772,271) exceed the \$500,000 judgments of restitution against the individual defendants. 12/4/06 Order at 1-2. No defendant filed any objection to that ruling.

On December 22, 2004, having received from the defense no documents or request for an extension of time, the Court issued an order that warned that “[i]f the requisite materials have not been supplied by December 28, 2006, the defense application of November 17, 2006 will be deemed withdrawn.” Order entered December 22, 2006.² To date, the defense has not supplied the materials ordered by the Court.³ Therefore, the defense motion is deemed withdrawn.

SO ORDERED.

**Dated: Brooklyn, New York
February 9, 2007**

**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**

² Although issued and docketed on December 22, 2006, that order is erroneously dated December 4, 2006, the date of this Court’s earlier order.

³ After issuing its order on December 22, 2006, the Court received in the mail a letter dated December 20, 2006, from counsel for James DiPalma, notifying the Court that, without judicial approval, the parties had agreed to extend the Court’s deadlines by four weeks. Because defense counsel had not filed the letter via ECF, it was never docketed. In any event, the defense has failed to abide by even the unauthorized four-week extension, which expired last month.